IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.16968 of 2005
Date of Decision: 23.10.2006

Nand Lal and others

Petitioners

versus

State of Punjab and another

Respondents

CORAM:- **HON'BLE MR. JUSTICE JASBIR SINGH**

HON'BLE MR. JUSTICE PRITAM PAL

Present: Shri Kanwaljit Singh, Advocate for the petitioners
Shri P.S.Chhina, Additional Advocate General, Punjab
Shri Kuldip Sanwal, Advocate for respondent No.2

Jasbir Singh, J. (Oral)

Vide order dated 26.3.2001, house tax was assessed regarding property of the petitioners. They went in appeal, which was dismissed vide order dated 1.9.2005 (Annexure P/5). Relevant portion of the order reads thus:-

> *"I have heard both the parties and have also gone through the file. I am in agreement with the arguments of the counsel for the respondent. The perusal of the file shows that the present demand notice was a result of consent between the party and the House Tax Committee of the Municipal Corporation, Patiala. In the order dated 26.3.2001 passed by House Tax Committee, Municipal Corporation, Patiala, the proposed assessment was already reduced from Rs.5000/- sq.yard to Rs.2000/- sq.yard or plot area and from Rs.300/- sq.ft. to Rs.200/- sq.ft. for the covered area. Secondly, the amount in dispute was also not deposited by the present appellant before filing the appeal. Keeping in view the above, the appeal filed in this case is hereby rejected."*

It is apparent from the records that the appeal was dismissed primarily on the ground that the petitioners had failed to deposit the amount of tax assessed, which is mandatory under the provisions of Section 147 of the Punjab Municipal Corporation Act, 1976. When this matter came up before this Court on 25.10.2005, following order was passed:-

> *"Counsel for the petitioners places reliance on the judgment of this Court in* ***ANZ Grindlays Bank Limited, Amritsar v. Municipal Corporation, Amritsar, 1999(2) RCR (Civil) 430****, to, inter alia, contend that before rejecting the appeal of the petitioners on the ground that the same was not maintainable as the petitioners had failed to deposit the disputed amount, they ought to have been granted a liberty to deposit the same. A perusal of the said judgment shows that this Court had accepted the prayer of the petitioner therein in view of the fact that the entire amount had been deposited before approaching this Court. In the present case, the disputed amount has not been deposited up to this date."*

Counsel for the petitioners states that in consequent to the order passed by this Court, the petitioners had deposited the amount of house tax till the filing of the appeal. In view of this, the writ petition is allowed, the order passed by the appellate authority is set aside and the matter is remitted to the appellate authority to pass a fresh order on merits.

Parties are directed to appear before the appellate authority on 27.11.2006.

(Jasbir Singh)
Judge

October 23, 2006 **(Pritam Pal)**
gk **Judge**